

BEFORE THE
RESPIRATORY CARE BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

RODNEY ALAN BURFORD
6948 Catawba Drive
Fontana, CA 92336

Respiratory Care Practitioner License
No. 21293,

Respondent.

Case No. R-2024

OAH No. L2006070514

PROPOSED DECISION

Administrative Law Judge Melissa G. Crowell State of California, Office of Administrative Hearings, heard this matter in Riverside, California, on September 25, 2006.

Deputy Attorney General E. A. Jones III represented complainant.

There was no appearance by, or on behalf of respondent Rodney Alan Burford.

The matter was submitted on September 25, 2006.

FACTUAL FINDINGS

1. Complainant Stephanie Nunez made and filed the first amended accusation in her capacity as Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs, State of California.

2. On February 9, 2000, the board issued Respiratory Care Practitioner License Number 21293 to respondent Rodney Alan Burford. The license will expire, unless renewed, on September 30, 2007.

3. There was no appearance by or on behalf of respondent at the hearing. Upon demonstration of proper service of respondent at his address of record in accordance with the

requirements of the Administrative Procedure Act, this matter proceeded as a default hearing under Government Code section 11520.

4. On June 5, 2006, respondent was convicted in Riverside County, on his plea of guilty, of a violation of Penal Code section 288, subdivision (a), lewd or lascivious conduct on a child under the age of 14, a felony. The offense is substantially related to the qualifications, functions, or duties of a respiratory care practitioner.

Respondent was sentenced to state prison for three years with credit for time served. He was ordered to pay a restitution fine of \$200 and other stated fees.

5. On the day of the offense respondent, wearing boxer shorts, was lying on a bed with his seven-year-old stepdaughter. She was wearing a nightgown and underwear. Respondent became sexually aroused when she touched his penis. Respondent lifted her nightgown, pulled her panties to the side, rubbed her vagina, and became further sexually aroused.

6. Complainant has incurred \$7,751 in costs from the Department of Justice for the investigation and prosecution of this matter.

LEGAL CONCLUSIONS

First Cause for Disciplinary Action

1. By reason of the matters set forth in Factual Finding 4, respondent was convicted of lewd and lascivious conduct with a child under the age of 18, a felony. An offense that involves sexual conduct or lewd conduct, whether or not with a patient, is by law deemed to be substantially related to the qualifications, functions or duties of a respiratory care practitioner. (Bus. & Prof. Code, § 3752.6; Cal. Code Regs., tit. 16, § 1399.70, subd. (e).) Cause for disciplinary action exists under Business and Professions Code section 3750, subdivision (a), in conjunction with Business and Professions Code section 3752.

Second Cause for Disciplinary Action

2. By reason of the matters set forth in Factual Findings 4 and 5, respondent engaged in corrupt acts. Cause for disciplinary action exists under Business and Professions Code section 3750, subdivision (j).

Third Cause for Disciplinary Action

3. By reason of the conviction of an offense that is substantially related to the qualifications and functions or duties of a respiratory care practitioner, respondent has

committed an act of unprofessional conduct. Cause for disciplinary action exists under Business and Professions Code section 3755.

Other Matters

4. Under Business and Professions Code section 3752.7, the stated discipline for a licensee who has been convicted of a sex offense as defined in Education Code section 44010 is license revocation. A violation of Penal Code section 288 is a sex offense within the meaning of Education Code section 44010. (See *id.*, subd. (a).) License revocation is the required discipline in this matter.

5. Under Business and Professions Code section 3753.5, a practitioner found to have violated the act may be ordered to pay to the board a sum not to exceed the costs of investigation and prosecution. By reason of the matters set forth in Factual Finding 6, the actual costs incurred by the board in this matter were \$7,751.

ORDER

1. Respiratory Care Practitioner License Number 21293 issued to respondent Rodney Alan Burford is revoked.

2. Respondent shall pay the Respiratory Care Board of California \$7,751 for its costs of investigation and enforcement of this matter.

DATED: _____

MELISSA G. CROWELL
Administrative Law Judge
Office of Administrative Hearings